

# HOUSE . . . . . No. 170

---

## The Commonwealth of Massachusetts

PRESENTED BY:

**Kathi-Anne Reinstein**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to Support the Availability of Residential Care Facilities as an Affordable Option for Elders and Persons with Disabilities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Kathi-Anne Reinstein	16th Suffolk
Louis L. Kafka	8th Norfolk
Todd M. Smola	1st Hampden
Barbara A. L'Italien	18th Essex
Patricia D. Jehlen	Second Middlesex
Cheryl A. Coakley-Rivera	10th Hampden
Willie Mae Allen	6th Suffolk
John W. Scibak	2nd Hampshire
Stephen L. DiNatale	3rd Worcester
Susan C. Tucker	Second Essex and Middlesex
Jennifer M. Callahan	18th Worcester

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT TO SUPPORT THE AVAILABILITY OF RESIDENTIAL CARE FACILITIES AS AN AFFORDABLE OPTION FOR ELDERS AND PERSONS WITH DISABILITIES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 7 of Chapter 118G of the General Laws is hereby amended in the first paragraph by  
2 adding at the end thereof the following sentence:- A public hearing on proposed rates for rest homes shall  
3 be held no later than August 15<sup>th</sup> of each year and rates for rest home shall be certified no later than  
4 September 1<sup>st</sup> of each year.

5 SECTION 2. Section 7 of Chapter 118G of the General Laws is hereby amended in the second paragraph  
6 by striking the following: “In setting such prospective or retrospective rates of reimbursement, the  
7 executive office shall use as base year costs for rate determination purposes the reported costs of the  
8 calendar year not more than four years prior to the current rate year, adjusted for reasonableness and to  
9 incorporate any audit findings applicable to said base year costs;” and inserting in place thereof the  
10 following sentences:- In setting such prospective or retrospective rates of reimbursement, the executive  
11 office shall use as base year costs for rate determination purposes the reported costs of the most recent  
12 calendar year available, which may not be more than two years prior to the current rate year, adjusted for  
13 reasonableness; provided further that the executive office appoint a committee to develop and recommend  
14 a methodology for establishing cost adjustment factors to project for the effect of inflation for every year  
15 after a base year period. The committee shall consist of five independent consultants who are not

otherwise employed by the commonwealth with experience in the field of health care economics. At least one member of the committee shall be designated by the Massachusetts Aging Services Association and at least one member of the committee shall be designated by the Massachusetts Extended Care Federation.

SECTION 3. Section 7 of Chapter 118G of the General laws is hereby amended in the third paragraph by including after the words: “and other means to encourage the cost-efficient delivery of services” the following words:- provided that the executive office shall not impose a negative total payment adjustment to rates for rest homes which would have the effect of capping a provider’s rate increase.

SECTION 4. Section 7 of Chapter 118G of the General laws is hereby amended in the fourth paragraph by striking the following sentence: “Except for ceilings or maximum rates of reimbursement, which are determined in accordance with rate determination methods imposed on nursing homes, any ceiling or maximum imposed by the division upon the rate of reimbursement to be paid to rest homes shall reflect the actual costs of rest home providers and shall not prevent any such rest home provider from receiving full payment for costs necessarily incurred in the provision of services in compliance with federal or state regulations and requirements, or for costs incurred for direct care” and inserting in place thereof the following sentence:- Except for ceilings or maximum rates of reimbursement, which are determined in accordance with rate determination methods imposed on nursing homes, any ceiling or maximum imposed by the division upon the rate of reimbursement to be paid to rest homes shall reflect the actual costs of rest home providers and shall not prevent any such rest home provider from receiving full payment for costs necessarily incurred in the provision of services in compliance with federal or state regulations and requirements, or for costs incurred for labor, energy, and insurance.

SECTION 5. Chapter 19A of the General Laws is hereby amended by inserting after section 13, the following section:- Section 14: Notwithstanding any general or special law to the contrary, there is hereby established an advisory committee on residential care facilities. The advisory committee is charged with reviewing the status of residential care facilities in the Commonwealth, including the number of facility closures, and shall make recommendations to the Office on Long Term Care relative to funding and reimbursement options to ensure the stability of residential care facilities as options for elders and persons with disabilities in the Commonwealth. Specifically, the advisory committee shall study funding and payment options for residential care facilities which will maximize federal financial participation, including making residential care a service funded under the section 1915(c) Home and Community

Based Services waiver and amending the state plan to make residential care a reimbursable service. The advisory committee will also review the status of physical plant needs of residential care facilities and will consider options for meeting capital improvements necessary to provide quality care and improve the quality of life for residents in residential care. Based on the results of the study, the advisory committee shall make a recommendation to the Secretary of Elder Affairs on actions to be taken, no later than 120 following the passage of this act. The Secretary of Elder Affairs shall take whatever steps necessary to implement the committee's recommendation.

The advisory committee shall be comprised of the Secretary of Elder Affairs, who will serve as the chair of the committee, the Commissioner of the Department of Transitional Assistance or his or her designee, the Commissioner of the Division of Health Care Finance and Policy or his or her designee, the Director of the Division of Health Care Quality at the Department of Public Health or his or her designee, the director of the Office for Medicaid or his or her designee, one state Senator to be appointed by the Senate President, one state representative to be appointed by the Speaker of the House of Representatives, three individuals representing residential care providers at least one from the Massachusetts Aging Services Association (MassAging) and one from the Mass Association of Residential Care Homes (MARCH). The committee shall meet not less than on a quarterly basis.